



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

Dale K. Hitt, CEO  
Digital Sun  
5655 Silver Creek Valley Rd. #434  
San Jose CA 95138

**COPY MAILED**

**AUG 09 2006**

**OFFICE OF PETITIONS**

In re Application of	:	
Dale K. Hitt	:	
Application No. 10/692,532	:	DECISIONS ON PETITIONS
Filed: October 24, 2003	:	
Title: Wireless sensor system for	:	
environmental monitoring and control	:	

This is a decision on the petition filed August 17, 2005, to withdraw the holding of abandonment in the above-identified application. This is also a decision on the petition under 37 CFR 1.137(b), filed June 6, 2006, to revive the above-identified application.

On September 28, 2004, the Office mailed a Notice to File Corrected Application Papers, which set a two-month extendable period to submit replacement drawings. The application became abandoned on November 29, 2004, for failure to submit a timely and appropriate response. On June 9, 2005, the Office mailed a Notice of Abandonment.

**PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT**

In the present petition, petitioner requested that the Office withdraw the holding of abandonment due to non-receipt of the Office communication. A review of the record indicates no irregularity in the mailing of the Notice of September 28, 2004, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office communication was properly mailed to the address of record.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself

of response due dates and show that the due date for the Notice to File Corrected Application Papers mailed on September 28, 2004, was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering the period from September 28, 2004 through November 28, 2004, to demonstrate nonreceipt of the notice. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to an Office communication, and where petitioner would have entered the receipt date of the Office communication had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioner must include a statement from petitioner, or any other person at the address who may have handled the Office communication, indicating that a search was conducted of the location where correspondence from the USPTO is kept; however, the Office communication was not found. Lastly, petitioner must state that he was, in fact, receiving mail at the correspondence address of record through November 28, 2004.

In the present petition, petitioner did not submit any documentary evidence, or an explanation of his method for tracking due dates for filing responses to communications from the USPTO to show he did not receive the Office communication. Therefore, the petition to withdraw the holding of abandonment is dismissed.

#### **PETITION UNDER 37 CFR 1.137(b)**

In the alternative, petitioner requested that the Office revive the application due to unintentional abandonment. The provisions of 37 CFR 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Accordingly, the petition under 37 CFR 1.137(b) is granted.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent and a change of correspondence must be submitted.

This matter is being referred to the Office of Initial Patent Examination.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

*Christina T. Donnell*

Christina Tartera Donnell  
Senior Petitions Attorney  
Office of Petitions